IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5151 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHILPABEN NAROTAMBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR SHAKEEL A QURESHI for Petitioners

MS BELA PRAJAPATI for MR BM MANGUKIYA for Respondent No. 2

MR KG SHETH, Learned APP for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 28/09/2000

ORAL JUDGEMENT

1. This is a petition filed by the petitioners abovenamed under Section 482 of the Criminal Procedure Code, 1973 for quashing the F.I.R. registered at Lunawala Police Station being C.R. No. 133 of 1999

filed by the second respondent for offences punishable under Sections 363, 380 read with Section 114 of the Indian Penal Code against the present petitioners. The second respondent has filed the aforesaid F.I.R. before the aforesaid police station stating that he is a resident of village Navakarva in Lunawala Taluka. That the first petitioner is his daughter. That the petitioners have run away by stealing certain properties mentioned in the F.I.R. from the custody and possession of the second respondent. That the second petitioner has kidnepped the first petitioner and therefore has committed the aforesaid offence.

2. The petitioners state that the aforesaid F.I.R. is false and in fact, the petitioners have gone together with consent. That the petitioners are adult and they have married and have not committed any offence as alleged in the aforesaid F.I.R. That therefore they have filed this petition and prayed for quashing the said F.I.R.

3. On receiving the petition, notice was issued and thereafter, rule was issued and Mr. K.G.Sheth, learned APP appears for respondent no.1 and Ms. Bela Prajapati for Mr. B.M.Mangukiya appears for respondent no.2. I have heard learned advocates for the parties and have perused the papers.

4. On going through the petition and other materials on record, it is not clear that the petitioners have run away by stealing certain ornaments. Then it has been alleged that the second petitioner has not kidnapped the first petitioner and they have married. Even learned advocate appearing for second respondent agrees with the aforesaid submission. In support of the said contention, petitioners have submitted a copies of the documents showing that the registration of marriage which has taken place before the Registrar of Marriage. That shows that the marriage took place on 12.7.1999. It also shows that the second petitioner was aged about 23 years at the relevant point of time and the first petitioner was aged about 20 years at the relevant point of time. Then the petitioners have also submitted the copies of the school leaving certificate which also show that the first petition is born on 1.8.1978 and the second petitioner is born on 15.6.1974. As per the certificates of the petitioners, it is very clear that both major at the relevant point of time and appear to have married with free consent. In that view of the matter, it cannot be said that the offences as alleged in the F.I.R. are made out. When the offences as alleged in the F.I.R. are not

made out, then there is no necessity or reason for Investigating Agency to enter into investigation.

5. The learned advocate appearing for contesting respondent also agrees that when the petitioners have married, the petition is required to be allowed and the F.I.R. be quashed. Mr. K.G.Sheth, learned APP also agrees with the said submission.

6. In the aforesaid view of the matter, this petition is allowed and F.I.R. registered at Lunawala Police Station being C.R. No. 133 of 1999 filed by the second respondent against the petitioners on 31.7.1999 is ordered to be quashed and set aside. Rule is made absolute. Interim relief, if any, granted by this Court stands vacated. Direct service is permitted.

(D.P.Buch,J)

(vipul)